

AN ACT

relating to the electronic dissemination of commercial recordings or audiovisual works.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 14, Business & Commerce Code, is amended by adding Chapter 642 to read as follows:

CHAPTER 642. ELECTRONIC DISSEMINATION OF COMMERCIAL RECORDINGS OR AUDIOVISUAL WORKS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 642.001. DEFINITIONS. In this chapter:

(1) "Electronic dissemination" means initiating a transmission of, making available, or otherwise offering a recording or audiovisual work for distribution, display, or performance through the Internet or other digital network.

(2) "Recording or audiovisual work" means a recording or audiovisual work that consists of substantially all of the recording or work. The term does not include a recording or audiovisual work that is a short extract from the recording or work.

(3) "Website" means a set of related web pages served from a single web domain. The term does not include a home page or channel page for the user account of a person who is not the owner or operator of the website on which the user home page or channel page appears.

Sec. 642.002. COMMERCIAL RECORDING OR AUDIOVISUAL WORK.

1 For purposes of this chapter, a recording or audiovisual work is
2 considered to be a commercial recording or audiovisual work if the
3 owner, assignee, authorized agent, or licensee of the recording or
4 work disseminates or intends to disseminate the recording or work
5 for sale, rental, or performance or exhibition to the public,
6 including under license, regardless of whether the person who
7 disseminates the recording or work seeks commercial advantage or
8 private financial gain from the dissemination.

9 Sec. 642.003. APPLICABILITY. This chapter does not apply
10 to a website operated by a radio or television station licensed by
11 the Federal Communications Commission.

12 Sec. 642.004. NO FINANCIAL LIABILITY FOR CERTAIN PROVIDERS.
13 This chapter does not impose financial liability on providers of an
14 interactive computer service, communications service, commercial
15 mobile service, or information service, including an Internet
16 access service provider, an advertising network or exchange, a
17 domain name registration provider, and a hosting service provider,
18 to the extent that the providers provide the transmission, storage,
19 or caching of electronic communications or messages of others or
20 provide another related telecommunications service, a commercial
21 mobile radio service, or an information service, for use by another
22 person that violates this chapter.

23 SUBCHAPTER B. REQUIRED DISCLOSURES

24 Sec. 642.051. DISCLOSURE OF CERTAIN INFORMATION REQUIRED.
25 (a) An owner or operator of a website or online service that deals
26 in substantial part in the electronic dissemination of third-party
27 commercial recordings or audiovisual works, directly or

1 indirectly, and that electronically disseminates those recordings
2 or works to consumers in this state shall clearly and conspicuously
3 disclose on the website or online service in a location that is
4 readily accessible to a consumer using or visiting the website or
5 online service, the owner or operator's true and correct:

- 6 (1) name;
- 7 (2) physical address;
- 8 (3) telephone number; and
- 9 (4) e-mail address.

10 (b) For purposes of this section, a location is considered
11 readily accessible on a website or online service if the location
12 is:

- 13 (1) a landing or home web page or screen;
- 14 (2) an "about" or "about us" web page or screen;
- 15 (3) a "contact" or "contact us" web page or screen;
- 16 (4) an informational web page or screen; or
- 17 (5) another place on the website or online service
18 commonly used to display information identifying the owner or
19 operator of the website or online service.

20 (c) Subsection (a) applies regardless of whether another
21 person has previously electronically disseminated the same
22 recording or audiovisual work.

23 SUBCHAPTER C. ENFORCEMENT

24 Sec. 642.101. DECLARATORY JUDGMENT OR INJUNCTIVE RELIEF.

25 (a) An owner, assignee, authorized agent, or exclusive licensee of
26 a commercial recording or audiovisual work electronically
27 disseminated by a website or online service in violation of this

chapter may bring a private cause of action against a person who violates or threatens to violate this chapter to obtain:

(1) a declaratory judgment; and

(2) permanent or temporary injunctive relief.

(b) Before filing an action under this section, the aggrieved party must provide notice to the person alleged to be in violation of this chapter that states:

(1) the person may be in violation of this chapter; and

(2) that failure to cure the violation before the 14th day after the date of receiving the notice may result in an action being filed against the person under this section.

(c) After the 14th day after the date the aggrieved party provides notice under Subsection (b), the aggrieved party may bring an action under this section in a court of competent jurisdiction.

(d) On motion of the party initiating the action, the court may make appropriate orders to compel compliance with this chapter.

(e) The prevailing party is entitled to recover necessary expenses incurred in an action under this section, including reasonable attorney's fees.

Sec. 642.102. DECEPTIVE TRADE PRACTICE; REMEDIES. (a) A violation of this chapter is a false, misleading, or deceptive act or practice as defined by Section [17.46\(b\)](#).

(b) The relief provided under this subchapter for a violation of this chapter is in addition to any remedy provided under other federal or state law, including Subchapter [E](#), Chapter [17](#).

SECTION 2. This Act takes effect January 1, 2022.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 855 passed the Senate on April 19, 2021, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 29, 2021, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 855 passed the House, with amendment, on May 26, 2021, by the following vote: Yeas 128, Nays 19, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor